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HUNGARY, CZECHOSLOVAKIA SIGN AGREEMENT
 FOR LEGAL ASSISTANCE IN CIVIL AND CRIMINAL CASES

On 6 March 1951, the Hungarian People's Republic and the Republic of Czechoslovakia signed an agreement in Budapest relative to mutual legal assistance in civil and criminal cases. Exchange of the documents confirming the contract took place on 10 October 1951 in Prague.

Principal provisions of the agreement are as follows:

The citizens of either Czechoslovakia or Hungary, while in the territory of the other country, shall enjoy the same civil rights and protection of person and property as are afforded to nationals.

Petitions and requests for the issuing of a summons may originate in any court of either country. If the court addressed has no jurisdiction over the case in question, it shall direct the petition or request to the appropriate court. Each court must proceed in accordance with the domestic laws and must employ the same means of compulsion as in domestic litigations. At the request of the originating court, the country addressed may employ special procedure, provided the latter does not conflict with the laws of the land. The court addressed shall inform the court of original jurisdiction, at the latter's request, of the time and place set for the proceedings.

No charges shall be made for legal procedure or for the fees and expenses of witnesses, experts, and inspection.

Each government shall have the right to serve, through official diplomatic channels, writs of summons on its own nationals residing in the territory of the other government. In such instance, however, there shall be no recourse to compulsion. Each government will refrain from demanding deposits of security from a plaintiff who is a national of the other country.

The citizens of either Czechoslovakia or Hungary shall partake equally of any gratuitous services offered by the courts of either country. Certification of the personal, domestic, financial, and property status of a petitioner shall

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come from the competent authorities at the petitioner's place of permanent residence. A document issued by the courts, government authorities, or notaries public of either country bearing their official seals or stamps shall be valid without further verification.

Both countries shall send one another excerpts of any registries, entered at their Offices of Vital Statistics, concerning their citizens. The Offices of Vital Statistics shall forward, free of charge, any excerpts requested for official use by the authorities of either country. The excerpts shall be sent via diplomatic pouch.

Final rulings of the courts of either country relative to the validity of a marriage or annulment shall be recognized by the other country, provided at least one of the spouses in the case was, at the time of the final decree, a citizen of the country whose court brought the final decision, and the other country's court has not returned a final ruling in the same case. This provision shall apply also to rulings made before the date on which this agreement shall become binding.

A missing person shall be declared dead by the authorities of the country whose citizen he was at the time of his disappearance. The courts of either country may declare citizens of the other country dead in the following instances:

1. When the request is made by persons wishing to establish their right, through relationship or marriage, to inherit real property.
2. When the request is made by husband or wife, provided he or she is resident of the country at the time of the application.

Even when the courts of either country have declared a citizen of the other country dead, they shall abide by the laws of the country whose citizen the deceased was.

The laws in effect at the time of birth shall determine whether or not the husband is the father of a child born to a woman living with him in wedlock. Should the husband die before the birth of the child, the laws of the country whose citizen the husband was at the time of his death become binding. The legal relationship existing between the child of an unmarried mother and the man considered to be the father shall be determined by the laws of the country whose citizen the father was at the time of the child's birth. Proceedings to determine the paternity or lineal descent shall be undertaken either by the competent authorities or by the courts having jurisdiction over the place of residence of the interested parties, provided they are at the time residing in the same country.

The laws of the country of the adopting parent shall be binding in matters of adoption. If the adopted child is a citizen of the other country, whose laws require the consent of the child or his legal representative or of the authorities, this consent must be obtained. An adoption may be annulled by the courts of the country whose citizen the adopted child is at the time of annulment.

The laws of either country, if they are not in conflict with this agreement, shall determine the guardianship of its own citizens. When it is necessary to make arrangements about custodianship for the citizens of one country having property or permanent legal residence in the other country, the authorities of the other country shall immediately notify the authorities concerned or, in very urgent cases, may even make the necessary arrangements themselves. The authorities of the country whose citizen has permanent legal residence or

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property in the other country may transfer the guardianship of such citizen regarding minors or wards to the other country. The authorities in whom the guardianship has been vested shall act in accordance with the laws of their own country except that the capacity in which they may act shall still be determined by the laws of the minor's or ward's own country. Relationship between the guardian and his ward shall be regulated by the laws of the country which ordered the guardianship.

The citizens of one country residing or holding property in the other country shall have the same rights to draw up wills, to inherit or disinherit as the natives of that country. In matters of inheritance the country of which the testator was a citizen at the time of his decease has jurisdiction. The courts of the testator's natural country shall have disposition over his personal property. Real property or property subject to legal restrictions in regard to natives and foreigners shall be administered by the courts of the country in which it is situated. If the national of one country dies in the other country, the local authorities shall immediately communicate with the decedent's consulate, giving all pertinent information on the names and places of residence of beneficiaries, as well as the nature and value of property left. When the beneficiaries are absent and have appointed no legal representative, the consulate of either country may, without further authorization, represent its nationals in inheritance matters. The authorities of the country in which the estate of the citizen of the other country is situated must make arrangement specified by their laws for the protection of the estate. Measures taken must be stopped on instruction of the authorities of the deceased's homeland. Unless otherwise specified, the decedent's personal property shall be placed at the disposal of the consulate, provided all public debts have been settled and official release permitting removal of the goods from the country has been granted.

If laws of neither country require that official steps be taken in connection with an inheritance and the heirs have proved their claims as well as reached an accord on the distribution of the property, and the authorities of the other country have agreed that official proceedings may be by-passed, the property need not be turned over to the consulate. In such event, official proceedings related to inheritance may be dispensed with. If personal property of the citizen of one country is left in the other country, heirs or legatees may request that the courts of the other country take charge of proceedings related to the property. Should the citizens of one country die while traveling in the other country, having no dwelling or place of residence there, his personal effects shall be turned over, without any proceedings, to the consulate of his country.

Either country shall mutually recognize the other's final court decisions to attach -- and the attachment itself -- in civil law cases when the decisions deal with claims to property title acquired after this agreement became effective. Upon request of the Minister of Justice of one country, the Minister of Justice of the other country shall recognize final decisions brought by the courts of either country relating to claims for reimbursement which arose before this agreement came into effect.

The foregoing stipulations do not apply to decisions which concern public corporations and institutions, enterprises, and trade unions; settlements growing out of commercial contracts and trade agreements between the two countries; settlement of insurance transactions, bills of exchange, or checks.

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Attachment orders shall be issued by the proper authorities of the country where attachment is to be made. If the debtor is a national of the country in which attachment has been requested, he may have recourse to appeals valid only in his own country. The laws of the country where the court has jurisdiction in the case shall be adhered to relative to attachment.

Both countries shall extradite, if requested, criminals who are sought for prosecution or are under sentence. Extradition is specified for acts deemed criminal in both countries and carrying a penalty of at least a year's imprisonment. Anyone attempting to be an accessory or actually an accessory to such criminal act shall be liable to extradition. Neither country is compelled to extradite its own nationals. Extradition is not applicable when the crime was committed in the country petitioned, when the petitioning country is seeking extradition for an offense no longer legally punishable in the country petitioned, and when the individual whose extradition is petitioned has already been sentenced for the same crime or his sentence has been revoked.

Each contracting country will, upon the request of the other country, institute criminal proceedings against any one of its own citizens who has committed a criminal act in the other country subject to extradition. The Minister of Justice of the country desiring prosecution shall make his request to the Minister of Justice of the other country, forwarding to him all available facts relative to the crime. The petitioned country shall advise the petitioner of the outcome of the proceedings and of the verdict arrived at. In extradition cases, the Ministers of Justice shall petition one another directly.

An original or certified copy of the court warrant for arrest or a final court decree or other court decision of equal weight must accompany the extradition petition. The documents must contain a complete description of the circumstances of the crime, particularly the time and place of its commission, the category in which it falls, the text of the laws dealing with it, and the penalty attached. In offenses against property, the damage or losses incurred must be indicated. A person who is to be extradited must be arrested as soon as the petition is received unless extradition is manifestly inapplicable in his case.

The accused or sentenced person shall be taken into temporary custody even before receipt of the petition if the petitioner so specifies, indicating that a court warrant has been issued against him. Temporary custody may be requested by mail, telegram, telephone, or radio. The authorities of one country shall likewise detain, without a formal petition, any person known by them to have committed an act subject to extradition. A detained person may be released if petition for his extradition is not received within a month after the other country has received notice that he is being held.

When the person whose extradition has been requested is being prosecuted or has been convicted for some other offense committed in the petitioned country, extradition shall be postponed until proceedings have been completed, the sentence served, or the penalty revoked. The person whose extradition is sought may be delivered temporarily into the custody of the petitioner, particularly when the postponement would cause the prosecution to become null and void or have other harmful effect on the proceedings. At the conclusion of the proceedings, the person must be returned. When more than one country petitions the extradition of the same person, the country petitioned shall decide whose request is to be granted.

Without the consent of the petitioned country, an extradited person shall not be prosecuted or penalized for crimes committed prior to extradition which are not subject to extradition, and he shall not be handed over to a third

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country. If an extradited person agrees before a court to accept further charges, the petitioned country's consent is unnecessary, but a certified copy of the court record of his acceptance must be sent to the other country.

If the petitioner's representatives do not arrive at the time and place specified, within 15 days, to take over the custody of the extradited person, he may be released. If an extradited person succeeds in evading prosecution and returns to the other country, he should be arrested and extradited again without any formality. Both countries pledge themselves, if requested, to take into temporary custody persons who have been extradited by a third country at the petition of the other country.

Each country shall advise the other of the outcome of the prosecution. If a legal verdict has been reached, a copy of it must be forwarded to the other country. Expenses arising from extradition proceedings shall be borne by the country in which they are incurred. However, the costs of transporting the extradited person shall be defrayed by the petitioner.

The judiciary authorities, i.e., courts and offices of the attorney general, shall extend to one another mutual assistance in the serving of summons and granting of petitions in criminal cases. In the course of this legal aid, the judiciary authorities shall contact one another directly. Legal assistance shall be extended to serving of subpoenas, delivery of verdicts and other documents, and activities concerned with the preparatory stages of a prosecution, such as questioning of defendants, witnesses, experts, court's reviews, searches, seizures, and forwarding of proofs of guilt.

Petitions and requests to issue a summons may come from any of the judiciary authorities of either country.

Legal aid in criminal matters may be denied when it is requested in connection with a prosecution undertaken for an offense subject to extradition and when the execution of the action does not come under the jurisdiction of the judiciary authorities in the country petitioned. The country petitioned need conduct searches and seizures only when this action will not infringe on the rights of a third person.

Regardless of his citizenship, a witness or expert summoned for questioning who voluntarily goes to the other country shall not become subject to prosecution or be held for offenses previously committed or for a sentence previously imposed; nor shall he, in his capacity as a witness or expert, be held on grounds of complicity in the crime being tried. The witness or expert shall lose this privilege if, through his own fault, he does not leave the territory of the petitioning country within a week after receiving notification from the authorities that his presence is no longer required.

If the person summoned as a witness or expert is under arrest in the country petitioned, the Minister of Justice may have him taken under guard to the petitioning country with the understanding that he is to be returned as soon as the questioning is completed. A person under arrest in a third country who is sought for questioning by either Hungary or Czechoslovakia shall be permitted by the Ministers of Justice to pass through both countries as he is taken to and from questioning. The Ministers of Justice shall send one another quarterly a record of sentences imposed, and forward the fingerprints of persons convicted.

At the request of the Minister of Justice of one country, the Office of Criminal Records of the other country shall send to the minister, without charge, data from its criminal records. The Offices of Criminal Records

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in both countries shall likewise exchange such data with one another. All expenses, such as fees of experts and witnesses arising from legal aid given in criminal matters, shall be borne by the country on whose territory the expenses are incurred.

At the direct request of the Ministry of Justice, both countries shall inform one another of the laws in force or previously in force in their territory.

Written communications between the two countries shall be either in their own official language or in Russian.

Documents prepared by the authorities of the two countries must bear the seal of the issuing authorities. For petitions, both countries shall use bilingual texts.

This agreement shall become effective a month after the day of its ratification and shall remain in effect for 10 years from that date. If neither country has moved to terminate the agreement within a year before the date of its expiration, this agreement shall remain in effect for another year from the date of expiration, at which time one of the countries shall abrogate it.

The agreement was prepared in the Hungarian and Slovak languages, and signed by Dr Erik Molnar and Dr Stefan Rais, Ministers of Justice, Hungary and Czechoslovakia, respectively.

According to the concluding protocol, representatives of both countries, after signing the contract, agreed upon the following:

1. Each country shall keep the other currently advised on its present and future judicial systems.
2. This agreement shall not apply to rulings, concluded after 20 January 1952, which affect enterprises designated as "nongovernment interests."
3. Problems arising in the interpretation of this agreement, particularly insofar as they concern amendments to the laws of both countries, shall be solved by a joint Hungarian-Czechoslovakian standing committee.
4. Mutual exchange of information and findings will take place within this committee.

This decree is effective 9 November 1951 and will be executed by the Minister of Justice.

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